

**DEPARTMENT OF JUSTICE  
TAX DIVISION DIRECTIVE NO. 113**

**VERIFYING CORRECTNESS OF REFUNDS**

When a refund is issued pursuant to a judgment or settlement (compromise or concession), the Tax Division is responsible for ensuring that the amount of the refund is accurate, both as to the principal amount of the refund and as to statutory interest. The Trial Attorney's role is to assure the correctness of all refunds made pursuant to judgments and settlements that were approved without reference to the Office of Review. The Office of Review Attorney should assure the correctness of all refunds made pursuant to settlements approved by that Office or higher levels of authority.

**Authorization of issuance of refunds**

The Tax Division authorizes the issuance of refunds with respect to settlements (Form M-4457) in all cases where the amount of the overpayment has been computed prior to approval of the settlement (which is the preferable procedure), in all cases where the amount of the overpayment is computed by the Tax Division after approval of the settlement, and in some cases where the amount of the overpayment is computed by the Internal Revenue Service after approval of the settlement. The Internal Revenue Service authorizes the issuance of refunds with respect to all judgments (Form M-4456) and also authorizes the issuance of refunds with respect to settlements (Form M-4457) in some cases where, at the time the settlement is approved, the amount of the overpayment is unknown and is to be computed by the Internal Revenue Service. In all cases where the Internal Revenue Service has authorized the issuance of the refund, the Form M-4456 or M-4457 and underlying computations must be reviewed promptly by the Trial Attorney or Office of Review Attorney to make sure that they comply with the terms of the judgment or settlement.

**Receipt of refund checks by Post Litigation Procedures Unit**

Refund checks, together with the notice of adjustment and statutory interest computation, are sent by the Internal Revenue Service to the Post Litigation Procedures Unit. This Unit will promptly hand deliver to the Trial Attorney or Office of Review Attorney a copy of the notice of adjustment and of the statutory interest computation. In cases being handled by the Civil Trial

Section, Southwestern Region, the Unit will promptly telefax these documents to the Trial Attorney. Before delivering or telefaxing these documents to the Trial Attorney or Office of Review Attorney, the Post Litigation Procedures Unit will ascertain whether the Attorney is scheduled to be in the office within the next five working days. If the Attorney is not scheduled to be in the office within this period, the Post Litigation Procedures Unit should consult with the Section Chief or Assistant Section Chief.

In cases where the refund check is received before the notice of adjustment and statutory interest computation are received, the Post Litigation Procedures Unit will advise the Trial Attorney or Office of Review Attorney by E-mail as to the amount of the check. When the notice of adjustment and statutory interest computation are received, the Unit will promptly deliver or telefax them to the Trial Attorney or Office of Review Attorney in accordance with the preceding paragraph.

#### **Verifying correctness of refund checks**

Whether the issuance of the refund has been authorized by the Internal Revenue Service or by the Tax Division, it is the responsibility of the Trial Attorney or Office of Review Attorney to review promptly the notice of adjustment to make sure that it complies with the judgment or the terms of settlement and the Form M-4456 or M-4457. Similarly, the Trial Attorney or Office of Review Attorney must review the statutory interest computation to make sure that it is correct. If the Attorney is unable to verify the amount of the refund check, the Attorney should seek the assistance of the Tax Division's Recomputation Specialist.

The Post Litigation Procedures Unit will not forward the refund check (and notice of adjustment and statutory interest computation) to taxpayer's counsel until it has been advised by the Trial Attorney or Office of Review Attorney, via E-mail or other written communication, that the check is in the correct amount.

#### **Verifying correctness of refunds issued by electronic funds transfer**

Refunds issued by electronic funds transfer are generally issued prior to the Tax Division's receipt of the notice of adjustment and statutory interest computation. Accordingly, in cases where refunds are to be issued by electronic funds transfer, the Trial Attorney or Office of Review Attorney shall include in the amount of the refund authorized on the Form M-4457 a specified amount of statutory interest computed to the approximate date of the Form M-4457, plus unspecified additional statutory interest accruing from such date. The statutory interest computation shall be attached to the Form M-4457, which shall also include a request that the Internal Revenue Service verify the specified amount of statutory interest and notify the Tax Division of any difference. Any such difference shall be promptly resolved by the Trial Attorney or Office of Review Attorney.

After receipt of the notice of adjustment and statutory interest computation, the Post Litigation Procedures Unit will forward copies of these materials to the Trial Attorney or Office of Review Attorney for verification. The Trial Attorney or Office of Review Attorney should advise the Post Litigation Procedures Unit by E-mail whether the amount of the electronic funds transfer is correct. If the amount of the electronic funds transfer is incorrect, appropriate measures should be instituted promptly to recover the erroneous refund or remit additional payment to the taxpayer.

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LORETTA C. ARGRETT  
Assistant Attorney General

DATE